Waiver of Requirement of Mortgagee Letter 2009-46 B Concerning Condominium Unit Insurance Requirements for HO-6 Coverage

Pursuant to §7(q) of the Department of Housing and Urban Development Act (42 USC 3535(q)) and 24 CFR 5.110, I hereby make the following Findings and Determinations.

FINDINGS

- 1. In response to the enactment of the "Housing and Economic Recovery Act of 2008" (HERA), the Department announced new guidance for the condominium project approval process in Mortgagee Letter (ML) 2009-46 B. This new guidance requires HO-6 insurance coverage for individual condominium units when the project Master Policy does not include interior unit coverage.
- 2. HO-6 coverage is a "walls-in" policy that protects the interior improvements and betterments in the event of perils such as bad weather, fire, explosion, and theft. For example, if the roof of a condominium is damaged and water leaks into the unit, the master building policy would cover the roof repair, but not individual unit repairs. HO-6 policies also generally cover improvements made, including private balconies or entrances, special fixtures or other additions to the property not covered by the Master Policy.
- 3. FHA-approved lenders are seeking a waiver to the HO-6 insurance requirements because their information technology (IT) infrastructure, including processing and underwriting systems do not currently accommodate for collection and management of this data. The system challenges for implementing HO-6 coverage requirements are:
 - Systems do not disclose the requirement or cost of such insurance and does not capture the monthly insurance premium. There is currently no field that captures this information.
 - The monthly insurance premium is not captured in the Debt-to-Income (DTI) calculation, thus affecting data integrity and accurate reporting.
 - Systems do not currently consider the monthly premium with monthly impounds (escrow accounts) and cash-to-close calculations, and do not include these amounts in closing instructions. This affects disclosures required by the Truth in Lending Act (TILA) and the Real Estate Settlement Procedures Act (RESPA).
 - Critical insurance policy data such as carrier, premium, coverage amount, policy number, and expiration is not captured in lenders' existing systems.
 - Because the critical insurance information is not captured in the front-end origination system, lenders do not have the ability to pass this information to their servicing systems to impound the monthly premium.
 - Lenders do not have the ability to track the HO-6 insurance remaining in force.
- 4. Lenders have advised the Department that any attempts to solve this problem immediately would pose significant risks that could ultimately lead to unsalable or uninsurable loans to FHA. With any type of manual process, there are multiple

failure points where incorrect or incomplete data could generate incorrect disclosures or TILA calculations.

- 5. Lenders are working with their IT staff on a technology build that would automate this process, with a target completion date of September 30, 2010.
- 6. Lenders currently process over 1,000 FHA Condo loan applications per month.
- 7. Without a waiver, lenders will have to discontinue this program. This will affect purchasers who intend to purchase a condominium unit and will diminish affordable housing opportunities. The sale of condominium units is vital to the recovery of the housing market.

DETERMINATIONS

- 1. A temporary waiver to the HO-6 insurance coverage required by ML 2009-46 B is recommended for lenders to continue to make FHA-insured loans on condominiums.
- 2. The waiver poses a low risk to the Mutual Mortgage Insurance (MMI) fund because lenders bear the responsibility and cost of restoring the property to its original condition before conveyance to FHA.
- 3. A waiver of the HO-6 coverage required by ML 2009-46 B will not violate any statutory requirements.
- 4. The above-findings constitute good cause for the waiver, as required by 24 CFR §5.110.

The waiver will expire one year from today's date. However, if FHA discovers that there is a significant increase in claim losses that are attributable to insured mortgages in condominium units without HO-6 coverage, the Commissioner may, at his discretion, withdraw this waiver immediately.

WAIVER

The requirement for HO-6 insurance coverage for condominium units under ML 2009-46 B is hereby waived for a period of one year from today's date, as established by the above determinations and condition.

David H. Stevens

Assistant Secretary for Housing-Federal Housing Commissioner

APR 29 2010

.Issued , 2010